QUALIFYING CHARITABLE CONTRIBUTION SUBTRACTION FOR TAXPAYERS CLAIMING FEDERAL STANDARD DEDUCTION

39-22-104(4)(M)

- 1) The subtraction for charitable contributions in excess of \$500 for taxpayers who made their federal income tax election to claim the basic standard deduction under Internal Revenue Code (IRC) section 63(c)(2) is available in tax year 2001 in which state revenues exceeded the limitation on state fiscal year spending and tax years beginning on or after January 1, 2006. The subtraction is not available to taxpayers who are not allowed to claim the federal basic standard deduction, such as:
 - a) Taxpayers for whom a dependency exemption is allowable to another taxpayer, even where a partial standard deduction is allowed under IRC 63(c)(5)
 - b) Married individuals filing separate returns, when one spouse itemizes deductions
 - c) Non-resident aliens
 - d) Any individual with a short tax year who is denied the federal standard deduction.
 - e) Estates, trusts, or other entities which are not "individuals."
- 2) To be eligible for subtraction contributions must qualify as a federal itemized deduction under §170 I.R.C. and collectively exceed a \$500 threshold for the tax year. The limits applicable to §170 I.R.C. deductions apply in computing the maximum subtraction allowed. The subtraction is available to all individual Colorado taxpayers and will be applied in computing the tentative tax before apportionment for part-year and non-residents of Colorado.
- 3) Except as specified in paragraph 4) below, the subtraction is available only in tax years in which state revenues exceed limitations on state fiscal year spending by amounts established in §39-22-104(4)(m)(III), C.R.S. In October or November of each year, the State will certify whether there are sufficient excess revenues to make this subtraction available. See Regulation 39-22-120 for years in which the subtraction is available.
- 4) Due to the passage of Referendum C (§24-77-103.6, C.R.S.) during the November 2005 statewide election, the subtraction is available for tax years beginning on or after January 1, 2006 and is not reliant on a budget surplus.